

## REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the above amendments and the following remarks.

Claims 28-36 have been cancelled in favor of new claims 37 and 38. Support for the subject matter of the new claims is provided, for example, in the cancelled claims and paragraphs [0059] and [0084] of Applicants' published specification. Claims 37 and 38 have been drafted to avoid the issues underlying the provisional double patenting rejections applied to claims 29, 35, and 36. (It should be noted that references herein to the specification and drawings are for illustrative purposes only and are not intended to limit the scope of the invention to any particular aspect of the referenced embodiments.)

Claims 28-36 were rejected, under 35 USC §103(a), as being unpatentable over Frodigh et al. (US 5,726,978) in view of Hashem (US 2004/0125743). To the extent that these rejections may be deemed applicable to new claims 37 and 38 presented herein, the Applicants respectfully traverse as follows.

Claim 37 defines a radio communication apparatus that: (1) receives information of a number from a communicating party, (2) selects a number, equal to the number indicated by the received information, of subcarrier blocks providing preferred reception quality, (3) generates a channel quality indicator (CQI) representing the average reception quality of the selected subcarrier blocks, and (4) reports the generated CQI to the communicating party. The claimed subject matter provides an advantage of reducing the number of bits to transmit when reporting information about the reception quality of a plurality of subcarriers (see specification page 7, lines 2-6 and 20-23).

The Office Action acknowledges that Frodigh does not disclose Applicants' claimed subject matter of generating a CQI that represents the average reception quality of subcarriers (see Office Action page 5, last two paragraphs), by citing Hashem for disclosing this subject matter. Thus, it follows that Frodigh cannot disclose Applicants' claimed subject matter of selecting a number, equal to a number indicated by information received from a communicating party, of subcarrier blocks providing preferred reception quality and generating a CQI representing the average reception quality of the selected subcarrier blocks.

The Office Action cites Hashem for a teaching of generating a CQI representing the average reception quality of received subcarriers (see Office Action page 5, last paragraph).

Although Hashem discloses averaging the signal-to-interference ratio (S/I) of all subcarriers whose reception quality exceeds a threshold value (see Hashem paragraphs [0020] and [0021]), Hashem does not disclose Applicants' claimed subject matter of selecting a number, equal to a number indicated by information received from a communicating party, of subcarrier blocks providing preferred reception quality and generating a CQI representing the average reception quality of the selected subcarrier blocks. More specifically, Hashem does not disclose receiving information of a specific number of subcarrier blocks from a communicating party. Thus, it follows from reasoning that Hashem cannot disclose Applicants' claimed subject matter of selecting a number, equal to a number indicated by information received from a communicating party, of subcarrier blocks providing preferred reception quality and generating a CQI representing the average reception quality of the selected subcarrier blocks.

Simply stated, Hashem's disclosed communicating party cannot regulate the number of subcarrier blocks whose reception qualities are averaged and represented by a CQI that is

transmitted to the communicating party, as can Applicants' claimed subject matter. Instead, the number of subcarriers whose reception qualities are averaged by Hashem's device is determined by the number of subcarriers having reception qualities exceeding a threshold value; as a result, the number of subcarriers whose reception qualities are averaged by Hashem's device is dependent upon the reception quality of each subcarrier.

With regard to Applicants' claim 31, the Office Action proposes that Frodigh discloses a "reconfiguring" operation in which the same number of subcarriers are selected as are indicated in an instruction received from a communicating party (see Office Action page 6, penultimate paragraph). Frodigh discloses, in Fig. 5, a reconfiguring operation that replaces a subcarrier having the lowest C/I among M subcarriers with another subcarrier, among N subcarriers identified in a received instruction, having a lower I measurement (see Frodigh Fig. 5, steps 514-520, and col. 11, line 54, through col. 12, line 33). Applicants submit that Frodigh's reconfiguring operation bears no relationship to the claimed invention.

Accordingly, the Applicants submit that the teachings of Frodigh and Hashem, even if combined as proposed in the Office Action, still would lack the above-noted features of claim 37 and thus these references, considered individually or in combination, do not render obvious the subject matter defined by claim 37. Independent claim 38 similarly recites the above-mentioned subject matter distinguishing apparatus claim 37 from the applied references, but with respect to a method. Therefore, allowance of claims 37 and 38 is warranted.

In view of the above, it is submitted that this application is in condition for allowance and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a personal communication, the Examiner is requested to e-mail the undersigned at the address listed below.

Respectfully submitted,

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